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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/060,436 10/29/97 SUNG YAMA M 30598,0004

<input type="checkbox"/>	EXAMINER
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QM22/0606

NGUYEN, G

ART UNIT	PAPER NUMBER
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3723

**DATE MAILED:** 06/06/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. 08/960,431	Applicant(s) Sugayama et al.
Examiner Nguyen	Group Art Unit 3723

Responsive to communication(s) filed on Mar 20, 2000.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 1-21 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-21 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

Please note that this action is not final due to a new ground of rejection. The examiner regrets any inconvenience.

### *Reissue Applications*

Claims 1-21 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See Hester Industries, Inc. v. Stein, Inc. 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); In re Clement, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); Ball Corp. v. United States, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) related subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

The limitations omitted in the reissue are “an annular shape with”, “radial direction of”, and “and perpendicular to the radial direction”. These provides broadening aspect to the reissue claims that was clearly argued in the original application amendment filed on May 17, 1996 to overcome the rejection based on Bombardier et al.’021 in view of JP’870, Beasley’963, Ruark et

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al.'681, and Holzhauer filed on February 26, 1996. Thus, the omitted limitation relates to subject matter previously surrendered, in the original application.

***Conclusion***

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Nguyen whose telephone number is (703) 308-0163. The examiner can normally be reached on Monday-Friday from 7:00 AM-3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Scherbel, can be reached at (703) 308-1272. The fax number for this Group is (703) 305-3579. An inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 308-1148.

George Nguyen  
Patent Examiner  
George Nguyen

6/5/2000



David A. Scherbel  
Supervisory Patent Examiner  
Group 3700